

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

BONNIE J. WERT,

Plaintiff,

Civil No. 06-6191-AS

v.

O R D E R

COMMISSIONER,  
Social Security Administration,

Defendant.

---

HAGGERTY, Chief Judge:

Magistrate Judge Ashmanskas issued a Findings and Recommendation [10] in this action that recommended that the final decision of the Commissioner of Social Security denying plaintiff's application for Disability Insurance Benefits ("DIB") under Title II of the Social Security Act should be affirmed.

No objections were filed to this Findings and Recommendation, and the case was referred to me. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. United States Dist. Ct.*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Magistrate Judge's Findings and Recommendation [10] is adopted. Although plaintiff correctly established that the Administrative Law Judge's finding that plaintiff could perform the work of a "photo finisher" is inconsistent with the plaintiff's residual functioning capacity (RFC) finding that she should "avoid work requiring acute hearing," plaintiff nevertheless failed to show that the Administrative Law Judge's evaluation of the evidence resulted in an erroneous RFC assessment. The Findings and Recommendation's conclusion that there was an appropriate RFC assessment and a proper finding that plaintiff can perform work existing in the national economy is adopted. Therefore, the Commissioner's decision that plaintiff failed to establish that she suffered from a disability that entitled her to benefits under Title II of the Social Security Act is based upon correct legal standards and supported by substantial evidence. The Commissioner's final decision denying plaintiff Bonnie J. Wert's application for DIB is affirmed.

IT IS SO ORDERED.

Dated this 3 day of December, 2007.

\_\_\_\_\_  
/s/ Ancer L. Haggerty  
Ancer L. Haggerty  
United States District Judge